

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

115-9-13759

IN THE MATTER OF:

EDUARDO OTERO PRIETO
IVETTE LA PORTE CAQUIAS

DEBTORS

CASE NO 10-09828 BKT

CHAPTER 13

MOTION OBJECTING PLAN

TO THE HONORABLE COURT:

NOW COMES creditor **BANCO BILBAO VIZCAYA ARGENTARIA (BBVA)**, represented by its undersigned attorneys and respectfully states and prays:

1. On **October 20th, 2011**, debtors filed the instant petition for relief.

2. Debtors filed an amended plan dated February 15th, 2011, by means of which they propose to pay to the Trustee the sum of \$100.00 for the first two (2) months and \$410.00 for fifty six (56) consecutive months for a total base of \$23,160.00. From said proceeds the Trustee shall disburse \$2,864.00 for attorney's fees. The plan further states that they consent to the lifting of the automatic stay in favor of BBVA.

3. BBVA is holder in due course of a duly recorded money purchase security agreement with security interest (contract number 9611115968) at the Motor Vehicles and Trailers Registry of the Department of Transportation and Public Works of the Commonwealth of Puerto Rico, which encumbers a 1999, Ford E-350 automobile, engine number 1FDWE30L7XHA73770 registered in the name of EDUARDO OTERO PRIETO. (See Exhibit "A")

4. BBVA respectfully requests from this Honorable Court to enter an Order denying confirmation of the proposed plan based on the following grounds:

a. Section 1325(a)(5) of the Bankruptcy Code, [11 USC 1325(a)(5) states as follows:

"(5)with respect to each allowed secured claim provided for by the plan-
(A) the holder of such claim has accepted the plan;
(B) (i) the plan provides that the holder of such claim retain the lien securing such claim; and
(ii) the value, as of the effective dated of the plan, of property to be distributed under the plan on account of such claim is not less than the allowed amount of such claim; or
(C) the debtor surrenders the property securing such claim to such holder;

b. Pursuant to BBVA's record debtors holds possession of the vehicle above described. As per the statement of Financial Affairs, there has been no transfer of the vehicle. It is important to note that, by not surrendering the vehicle, debtor intends to continue using the same until BBVA is able to foreclose its security interest in a judicial action.

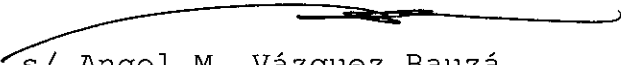
c. It is BBVA's contention that debtors have filed in bad faith the instant plan because they should had provided for the immediate surrender of the vehicle instead.

WHEREFORE, it is respectfully requested from this Honorable Court to grant this Motion and to enter an Order denying confirmation of the proposed plan.

I HEREBY CERTIFY: On this same date I electronically filed the foregoing document with the clerk of the Court using the CM/ECF System which will sent notification of such filing to the following: Attorney for Debtor(s), **JOSE M PRIETO CARBALLO, ESQ** and to Chapter 13 Trustee, **JOSE RAMON CARRION MORALES** and by ordinary mail to debtor(s) and to all creditors and parties in interest appearing in the attached Master Address List.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 23 day of February, 2011.


s/ Angel M. Vázquez Bauzá
ANGEL M VÁZQUEZ BAUZÁ, ESQ.
Bar Number: 203308
ENR & Associates
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oco

CERTIFICADO DE TITULO

16may2007 14:56:51

0403-1032-5226-000000000

| NUMERO DE TITULO | FECHA EXPEDICION | NUMERO DE REGISTRO | FECHA REGISTRO |
|------------------|------------------|--------------------|----------------|
| A 2676362 | 25ene2000 | 5621154 | 02mar1999 |

| NUMERO DE SERIE (VIN) | MARCA | MODELO | AÑO | REAL CLANDRO |
|-----------------------|-------|-----------------|------|--------------|
| 1FDWE30L7XHA73770 | Ford | excursioner van | 1999 | 08 |

| CAP CARGA | PESO | NEVO DRADO | TITULO ANTERIOR | ESTADO | ODOMETRO | COLOR |
|-----------|--------|------------|-----------------|--------|----------|----------|
| 6,000# | 4,700# | Nuevo | Centor 15 | MI | | 0 blanco |

NOMBRE Y DIRECCION DEL DUEÑO REGISTRAL

Nombre: OTERO PRIETO, EDUARDO

Resid: REPARTO VALENCIA
F-18 CALLE MARGARITA
BAYAMON PR 00959Postal: E-R CALLE SAN AGUSTIN APT 509
SAN JUAN PR 00901ESTE ES SU
TITULO DE PROPIEDAD.
CONSERVELO EN
SITO SEGURO.

GRAVAMENES

PRIMER GRAVAMEN (VENTA CONDICIONAL)

BBVA

FECHA
DUEÑO, AÑO

26may2006

SEGUNDO GRAVAMEN (OTROS)

CANCELACION GRAVAMEN

EL (LOS) ABADO FIRMANTE (S) TENEDOR (ES) DEL GRAVAMEN SOBRE EL VEHICULO DE MOTOR DESCRITO
ARRIBA, CERTIFICAMOS QUE EL MISMO HA SIDO PAGADO (S) MAS DE UN GRAVAMEN DEBERAN APARECER DOS
(2) FIRMASPRIMER
GRAVAMEN

FECHA

FIRMA AUTORIZADA

SEGUNDO
GRAVAMEN

FECHA

FIRMA AUTORIZADA

SECRETARIO O
REPRESENTANTE AUTORIZADO

NUMERO CONTROL

A-7693701

NO ES VALIDO SI ALTERADO

Label Matrix for local noticing
0104-3
Case 10-09828-BKT13
District of Puerto Rico
Old San Juan
Thu Feb 24 10:07:23 AST 2011

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The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

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